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FINAL REPLY:

Senator Edward J. Markey

TO:

Chairman Meserve

FOR SIGNATURE OF :

** PRI **

CRC NO: 02-0026

Chairman

DESC:

ROUTING:

Regulations and Requirements used by the NRC to
Ensure Radioactive Materials Properly and Legally
Shipped to the U.S. from Abroad

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ACTION OFFICE: EDO

AUTHOR: Edward Markey
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ADDRESSEE: Richard Meserve
SUBJECT: Questions regarding the regulations and requirements used by the NRC to ensure that radioactive materials are not improperly or illegally shipped to the U.S. from abroad

ACTION: Signature of Chairman
DISTRIBUTION: Chairman, Comrs, , OIP, OGC , RF, OCA to Ack

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EDO --G20020024

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January 16, 2002

The Honorable Richard A. Meserve
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

I am writing to request information regarding the regulations and requirements used by the Nuclear Regulatory Commission (NRC) to ensure that radioactive materials are not improperly or illegally shipped to the U.S. from abroad. Based on recent press reports concerning a FedEx shipment that was emitting high levels of radiation but was not detected until after it was delivered, I am concerned that controls adequate to prevent the improper or illegal importation of dangerous radioactive materials either do not exist or are not being enforced.

A January 10, 2002 article in the New York Times reported that FedEx shipped a 300 pound package containing 9400 curies of radioactive iridium-192 from Paris to the Source Production and Equipment Company in St. Rose, Louisiana. The package was reportedly emitting so much radiation by the time it was delivered that an individual exposed to it could have developed symptoms of radiation poisoning within several hours. For some reason, the radiation leak went undetected by officials at both U.S. Customs and FedEx.

This event raises numerous concerns. In addition to the fact that this matter may have endangered the health of the individuals who handled (or came close to) the package, the incident may be indicative of a more systemic problem with the manner in which these shipments are processed, and incidents such as this one could be occurring on a regular basis. Moreover, many reports have detailed the attempts of members of Al Qaeda to obtain radioactive materials in order to create and detonate dirty bombs or improvised nuclear bombs that could kill many people and radioactively contaminate entire communities.

The apparent inability to detect radioactive shipments as they enter the U.S. raises the possibility that terrorists could be using our postal and consignment carriers such as FedEx and UPS to send radioactive materials to the U.S. for use in future attacks, just as the hijackers used our flight schools and our airplanes to commit the attacks of September 11. Consequently, I ask for your prompt attention in answering the following questions:

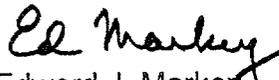
- 1) Are exporters of radioactive materials seeking to make a shipment to the U.S. required to ensure that the recipient is licensed by the NRC to possess the material being requested? If so, please fully describe how this requirement is met and who at the NRC and/or U.S. Customs ensures that it is being done consistently and accurately. If not, then how do you know that Al Qaeda members, other terrorist organizations, or citizens of hostile foreign nations have not already imported radioactive materials from abroad for use in future terrorist attacks in the U.S.?
- 2) Please describe the process by which packages entering the U.S. are screened for radioactive materials.
 - a) Please fully describe the regulations and requirements for ensuring that packages labeled as containing radioactive materials are not leaking radiation, including i) the numbers of radiation detectors required at each port of entry to the U.S., ii) the paperwork and other reporting requirements for cases where a package is found to be leaking (including reporting the incident to the country of origin and/or the shipper of the material. Please include requirements contained in NRC regulation, NRC management directives, or cooperative arrangements with foreign countries.), iii) procedures for handling packages found to be leaking radiation to minimize adverse consequences to public health, and iv) the role played by NRC personnel to ensure that these regulations are being followed.
 - b) Please describe how and when the authorities in Sweden and France (through which the iridium container was transshipped) were notified of this incident by the U.S., what the roles of the NRC Office of International Programs and Department of Transportation was in such notification. Additionally, how, when and by whom was the International Atomic Energy Agency informed notified?
 - c) Were all regulations and requirements for ensuring that packages labeled as containing radioactive materials are not leaking radiation followed for the shipment of radioactive iridium? Please describe which requirements were met and when, and provide copies of all documentation. Please also describe which requirements, if any, were not met, and what penalties will be imposed for failing to meet them.
 - d) Please fully describe the regulations and requirements for ensuring that packages not labeled as containing radioactive materials are not leaking radiation, including the numbers of radiation detectors required at each port of entry to the U.S., the paperwork and other reporting requirements for cases where a package is found to be leaking, procedures for handling

unlabeled packages found to be leaking radiation to minimize adverse consequences to public health, and the role played by NRC personnel to ensure that the regulations are being followed.

- e) Is every package entering the U.S. required to be screened using a radiation detector? If not, then how do you know that Al Qaeda members, other terrorist organizations, or citizens of hostile foreign nations have not already imported radioactive materials from abroad for use in future terrorist attacks in the U.S.?
- 3) Please describe how and when the NRC, both in headquarters and in Region IV, learned of the incident, with a specific description of the role of the NRC's Incident Response Center and the U.S. Government's National Response Center in such notification.
- 4) It is my understanding that the IAEA designated this incident a Level 3 on the IAEA's International Nuclear Event Scale (INES), which is the most serious nuclear incident classification. What was the basis for making this determination? How many other Level 3 incidents have there been in the U.S.? For each such incident, please fully describe the circumstances.
- 5) How much radiation exposure was potentially received by personnel along the shipping route and what steps are being taken to determine actual exposure and treatment of exposed individuals?
- 6) Please describe how the package in question is being handled and processed, including a description of the role of the NRC, foreign entities, and the Source Production and Equipment Company, the receiver of the package.

Thank you very much for your consideration of this important matter. Please provide your responses no later than close of business on Thursday January 31. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff or Mr. Jeff Duncan of my staff at 202-225-2836.

Sincerely,


Edward J. Markey
Member of Congress